SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

WRIT PETITION NO.4660 OF 2005

PETITIONER: Premlal Halwai, S/o Yashwant Halwai, aged about 75 years, Occupation: Business, resident of Fazerpur, Jagdalpur, Chhattisgarh.

P.R. No. 4972/05
Presented by Shri I.S. Sahu
dated 23/9/05

VS

RESPONDENTS

1. State of Chhattisgarh, Through the Secretary, Department of Revenue, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.

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2. The Collector, Bastar, Jagdalpur, Chhattisgarh.

3. The Tehsildar, Jagdalpur, District: Bastar, Chhattisgarh.

4. V. Venkat Rao, S/o V. Narsimha Rao, Caste: Kapu, R/o Kejaramunda Ward, Jagdalpur, District: Bastar, Chhattisgarh.

शपथ आयुक्त
रायु. के. शुक्ला
बिलासपुर (छ.ग.)
21/9/05

5. Sanjay Kumar Jain, S/o Shantilal Jain, R/o Palace Road, Motilal Nehru Ward, Jagdalpur, District: Bastar, Chhattisgarh.

Fixed

WRIT PETITION UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS /CERTIORARI ETC OR DIRECTION(S) / ORDER(S) IN THE LIKE NATURE ETC.

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No.4660 of 2005

Premlal Halwai

- Versus -

State of Chhattisgarh & others

Present: -

Mr. Rajeev Shrivastava, Advocate : For the petitioner.

POST FOR ORDER ON 29th SEPTEMBER, 2005

Sd/-
L.C. Bhadoo
Judge

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition No.4660 of 2005

Premlal Halwai

- Versus -

State of Chhattisgarh & others

Present: -

Mr. Rajeev Shrivastava, Advocate : For the petitioner.

O R D E R

(Passed on 19th September, 2005)

L.C. BHADOO, J.

1. The petitioner has filed this writ petition being aggrieved by the order dated 19.9.2005 passed by the Collector, Bastar in Review Case No.02/A-12/2004-05 arising out of the order dated 22.8.2005 passed in Revision Case No.01/A-12/2004-05.

2. I have heard learned counsel for the petitioner.

3. Brief facts, as set out in the petition, necessary for the disposal of this writ petition are that the petitioner was in possession of 0.26 acres land bearing Khasra No.16/32. Since the petitioner was in possession of the said land, he initiated proceeding before the Tehsildar, Jagdalpur for settlement of land and therefore, a proclamation was issued. The Gram Panchayat, Dharampura gave no objection certificate, as a result of which the petitioner was conferred Bhumiswami right vide order dated 10.11.1980. Thereafter, with the permission of the Gram Panchayat the petitioner constructed a house also on the said land, but somehow by mistake in the revenue records the khasra number of the said land was recorded as 6/16 instead of 16/32, therefore, the petitioner moved for correction of the

same and same was corrected vide order dated 11.4.2005. Respondent No.4 claiming himself to be the owner of land bearing Khasra No.16/45 on the basis of purchase of the same from Smt. Mitra Das Gupta & Smt. Jaishri Das Gupta under a sale deed (Annexure P-7). The map attached with the said sale deed shows that same was a Nazri map, as such, boundaries of the land are not clear and taking advantage of that situation, respondent Nos.4 & 5 wanted to trespass on the land of the petitioner, therefore, the petitioner has filed a civil suit before the Court of 3rd Civil Judge Class-II, Jagdalpur along with an application under Order 39 Rules 1 & 2 of the C.P.C and the same is pending decision. In the meantime, on 3.4.2003 respondent No.4 moved an application for demarcation of his land bearing Khasra No.16/45 and the same was rejected by the Tehsildar, Jagdalpur. The order of Tehsildar was appealable, however respondent No.4 moved a revision before the Collector, Bastar and the Collector vide order dated 22.8.2005 set aside the order of the Tehsildar, Jagdalpur.

4. The main grievance raised by counsel for the petitioner is that when the order of Tehsildar was appealable, the Collector was not entitled to entertain the revision.

5. Having heard learned counsel for the petitioner, I have perused the record.

6. The dispute in this matter is that the petitioner is claiming his land on the basis of Bhumiswami right given by the Tehsildar, whereas, respondent No.4 is claiming right of land which was purchased by him under a sale deed and he moved for demarcation of the land as per sale deed, but how the Tehsildar rejected that application reasons are best known to the Tehsildar. Even otherwise, it is the duty of the Revenue

Authorities to demarcate the revenue lands of the respective parties, therefore, the Tehsildar ought to have demarcated the land and if, on account that demarcation, any dispute arises between the parties then the parties should have been left to settle their disputes through judicial process. The Collector vide impugned order has correctly directed the Tehsildar to demarcate the land purchased by respondent No.4, therefore without going into technicalities, I do not find any illegality or infirmity in the order impugned. Moreover, the petitioner has already filed a civil suit for deciding his rights and same is pending consideration before the 3rd Civil Judge, Class-II, Jagdalpur. Therefore, if the petitioner has any grievance against the demarcation, he can raise ~~this~~ grievance before the appropriate Forum. At this stage, it will not be appropriate to interfere with the Collector's order directing the Tehsildar to demarcate the land of respondent No.4, which was purchased by him under a sale deed.

7. In the result, the petitioner has not been able to make out a case for invoking extra ordinary jurisdiction of this Court in order to interfere with the Collector's order. The writ petition is liable to be dismissed and it is accordingly, dismissed at the admission stage itself.

Sd/-
L.C. Bhadoo
Judge

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